

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

JoeAnn Crosby,

Plaintiff,

vs.

Sam's East, Inc. d/b/a Sam's Club, and Scott
Silver, a/k/a Jeffrey Silver, individually,

Defendants.

Civil Action No.: 4:24-cv-3851-JD

NOTICE OF REMOVAL

TO: PLAINTIFF AND HER COUNSEL, WILLIAM J. LUSE, ESQ.:

Defendant Sam's East, Inc. d/b/a Sam's Club (hereinafter "Defendant" and/or "Sam's Club"), by and through its undersigned counsel, files this Notice of Removal of the above-titled action from the Court of Common Pleas of Horry County, South Carolina to the United States District Court for the District of South Carolina, Florence Division, pursuant to 28 U.S.C. § 1441.

GROUND FOR REMOVAL

1. The above-titled action was instituted by the Plaintiff against the Defendants by service of a Summons and Complaint that was filed on May 9, 2024, in Horry County Court of Common Pleas and served on Sam's Club registered agent, CT Corporation, on June 4, 2024. This action is currently pending in the Court of Common Pleas for Horry County, South Carolina, Case No. 2024-CP-26-03208. No further proceedings have been filed and the Summons, Complaint, and Plaintiff's discovery requests attached to the Complaint constitute all process, pleadings, or orders properly served in this action. A copy of the entire contents of the Horry County file in the State Court Action is attached hereto as Exhibit 1, pursuant to 28 U.S.C. § 1446(a). This Notice of Removal is being filed within thirty (30) days of the date of service on Sam's Club pursuant to 28 U.S.C. § 1446(b).

2. There is jurisdiction over this removed action pursuant to 28 U.S.C. § 1441 because Plaintiff could have originally filed the action in this Court pursuant to 28 U.S.C. § 1332. Specifically, this suit is removable because there is complete diversity of citizenship between the Plaintiff and all Defendants and based upon Plaintiff's claimed injuries and damages as set forth in her Complaint, the amount in controversy in this action exceeds Seventy-Five Thousand and 00/100 Dollars (\$75,000.00), exclusive of interests and costs.

3. In her Complaint, Plaintiff alleges that she is a citizen and resident of Horry County, South Carolina. (Compl. ¶ 3). Plaintiff's Complaint further alleges that Defendant Sam's East, Inc. d/b/a Sam's Club, is a foreign corporation organized under Arkansas law. (Compl. ¶ 1). Upon information and belief, Defendant Scott Silver, a/k/a Jeffrey Silver has not yet been properly served in this action. Moreover, upon information and belief, Defendant Scott Silver, a/k/a Jeffrey Silver is a citizen and resident of Florida. Therefore, there is complete diversity of citizenship as to the parties of this action.

4. Based upon the allegations of Plaintiff's Complaint, the amount in controversy in this matter exceeds the sum of Seventy-Five Thousand 00/100 Dollars (\$75,000.00), exclusive of interest and costs. Specifically, "Plaintiff prays for damages against the Defendant(s) in the amount of: (a) actual damages; (b) consequential damages; (c) incident damages; (d) punitive damages; (e) reasonable attorney's fees; (f) costs of this action; and (g) other damages such as this Honorable Court deems appropriate and just." (Compl. at page 10). Moreover, Plaintiff allegedly "suffered injuries and damages, including but not limited to: (a) extensive pain, mental anguish, past and future; (b) disability for a period of time, past and future; (c) money spent for medical care and treatment, past, present, and future; (d) inability to carry on normal activity; (e) permanent injuries and partial disability; (f) emotional trauma and distress; (g) lost wages past and future; and

(h) loss of enjoyment of life.” (Compl. ¶ 24). Also, to date Plaintiff’s counsel has declined to enter a proposed stipulation limiting damages. Therefore, this action is one over which the District Court of the United States has original jurisdiction under 28 U.S.C. § 1332 for the reasons set forth above.

5. Sam’s Club provides counsel for Plaintiff written notice of the removal of this action and will provide a copy of the filed Notice of Removal to the Clerk of Court for Horry County, as required by 28 U.S.C. § 1446(d).

6. Sam’s Club files this Notice of Removal within thirty (30) days of the receipt of Plaintiff’s Complaint in the state court action, which was the first pleading received by Sam’s Club setting forth the claims for relief upon which this action is based.

WHEREFORE, Sam’s Club respectfully submits this Notice of Removal.

s/Robert C. Blain

Robert C. Blain, Federal ID No. 11470

Madeline E. Nelson, Federal ID No. 13903

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July 3, 2024

Attorneys for Defendant